

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

GEOFF McPHERSON and ROSEANNE
McPHERSON, husband and wife,

Plaintiffs,

v.

HOMEWARD RESIDENTIAL, et al.,

Defendants.

CASE NO. C12-5920 BHS

ORDER DENYING WITHOUT
PREJUDICE DEFENDANTS'
MOTION TO DISSOLVE
INJUNCTION RESTRAINING
FORECLOSURE AND RELEASE
OF FUNDS

This matter comes before the Court on Defendants' motion to dissolve injunction restraining foreclosure and release funds in the court registry to Ocwen Loan Servicing, LLC (Dkt. 51). The Court has considered the pleadings filed in support of and the remainder of the file and hereby denies without prejudice the motion for the reasons stated herein.

On August 21, 2013, the Court granted Plaintiffs' motion for a temporary restraining order. Dkt. 30. On February 4, 2014, the Court granted Defendants' motion for summary judgment and dismissed the case. Dkt. 47. On February 6, 2014, judgment was entered. Dkt. 48. On March 3, 2014, Plaintiffs filed a notice of appeal. Dkt. 49.

1 The filing of a notice of appeal generally divests the district court of jurisdiction,
2 although the district court may act to assist the court of appeals in the exercise of its
3 judgment. *See Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58-59 (1982) and
4 *Davis v. United States*, 667 F.2d 822, 824 (9th Cir. 1982).

5 Defendants have failed to cite any authority that, given the pendency of Plaintiffs'
6 appeal, the Court has jurisdiction over the instant motion. Therefore, the motion is
7 denied without prejudice for lack of jurisdiction. Defendants may apply to the Ninth
8 Circuit for relief, such as limited remand to resolve this issue at the district court level.

9 **IT IS SO ORDERED.**

10 Dated this 2nd day of July, 2014.

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13 BENJAMIN H. SETTLE
14 United States District Judge
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